THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

W.P. No.23267 of 1998

Date: 21.06.2007

Between:

S. Narasimha Murthy … Petitioner

AND

A.P.S.E. Board represented by its
Member-Secretary, Vidyut Soudha,
Somajiguda, Hyderabad and others … Respondents

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O R D E R:

This writ petition is filed for a Writ of Mandamus declaring the action of the first respondent in issuing the Memo No.CE/DC/DM/XX/641-R1/97-5, dated 20.04.1998, whereby the penalty of withholding of two increments without cumulative effect was imposed on the petitioner.

The petitioner was working as a Lineman at Tekkali during the year 1987. Disciplinary proceedings were initiated against him in connection with unauthorised domestic service connection released in favour of Smt. K. Butchamma without assigning any service connection number. The charge framed against the petitioner reads as under:-

> "**CHARGE:** Sri S. Narasimha Murthy, while working as lineman reported to have failed to divolge incriminating evidence against his co-workers immediately after occurrence of the offence nor he informed his officers by exhausting the channely. He disclosed the information after long wait with ulterior motive which constitutes misconduct as per A.P.S.E. Board (Revised) Conduct Regulations."

An Enquiry Officer was appointed, and he conducted an enquiry,

in which the petitioner has participated. On completion of the enquiry, the Enquiry Officer, submitted his report dated 16.02.1996. Considering the enquiry report and the explanation submitted by the petitioner, the Principal Secretary of respondent No.1, passed an order on 20.04.1998, which is impugned in this writ petition.

Heard Sri Sunil B. Dubey, learned Counsel representing Smt. K. Sesharajyam, learned Counsel for the petitioner. No one appeared for respondents.

A reading of the enquiry report, dated 30.04.1995, shows that the petitioner took the stand that as soon as he detected the availing of service connection unauthorisedly i.e., without registering the connection, by Smt. K. Butchamma, he informed Sri A. Madhusudhana Rao, Additional Assistant Engineer of Tekkali Distribution Area. This plea was not believed by the Enquiry Officer, and it is appropriate to extract the relevant portion of the Enquiry report, which is as under:-

> "Sri S. Narasimha Murthy, Lineman, stated to have informed Sri A. Madhusudhana Rao that the Service of Smt. K. Butchamma is existing unaccounted for and for regularisation of service he stated to have brought and handed over the test report. Except for his version there is no supporting documentary collateral evidence available.
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> Having taken the monthly readings and having carried out pole to pole inspection by Sri S. Nrasaimha Murthy, Lineman during his tenure he ought to have brought this information then and there. In the meter reading registers operated during his tenure, he should have furnished this information. But, in the meter reading registers maintained in the Office there is no such information. As an after thought he recorded the information in the personal copy of the meter reading register available with him.
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> Thus except for the version of Sri S. Narasimha Murthy, Lineman there is no recorded proof to show

that Sri A. Madhusudhana Rao, A.A.E., had failed to account for the service even when it was brought to his notice.

So also he dragged in the name of Sri S.M.Mani, Sri S. Narasimha Murthy, Lineman stated to have informed the section officer that the service of Smt. Butchamma is existing unaccounted for and for regularisation of the service, he stared to have brought and handed over the test report to Sri S.M.Mani, Asst. Engineer. Except for his version there is no supporting documentary or collateral evidence available.

In the meter reading register operated during his tenure the lineman should have furnished this information and brought it to the notice of the section officer. But in the meter reading register maintained in the office there is no such information. As an after thought he recorded the information in the personnel copy of the meter reading register available with him."

The Principal Secretary of the Board having called for an explanation and not being satisfied with the same, imposed the punishment of withholding of two increments without cumulative effect.

Though the learned counsel for the petitioner made strenuous efforts to persuade me to accept his contention that the order passed by the disciplinary authority is illegal and improper, I am unable to accept this contention. The Enquiry Officer, after a thorough analysis of the material available on record, gave a finding that the petitioner had knowledge of the irregular service connection given to Smt. Butchamma, but still he failed to bring it to the notice of the officers concerned, as a result of which, the A.P.S.E.B. has suffered financial loss. As the finding of the Enquiry Officer falls in the realm of appreciation of facts and analysis of evidence, this Court in exercise of the power of judicial review, under Article 226 of the Constitution of

India, would not embark on reappreciation of facts and evidence.

I am, therefore, of the view that the order passed by the disciplinary authority imposing on the petitioner the penalty of withholding of two increments without cumulative effect does not suffer from any legal error warranting interference by this Court, under Article 226 of the Constitution of India.

The Writ Petition is, therefore, dismissed. No order as to costs.

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C.V.NAGARJUNA REDDY,J.

Dated:21.06.2007
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THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

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